

REMARKS

Claims 1-42 are pending in the present application. By this Amendment, Claim 1 is amended. Support for the amendments is found at p. 18, lines 20-24 of the specification. Based on the foregoing amendments and the following remarks, Applicants respectfully request allowance of the pending claims.

I. Formal Matters:

Restriction Requirement

The Office Action requires restriction between the following groups of claims:

Group I: Claims 1-20 drawn to a porous, breathable film; and

Group II: Claims 21-42 drawn to a method of making a porous, breathable film;

Applicants hereby confirm their election, *with traverse*, of Group I, Claims 1-20 drawn to a porous, breathable film, reserving the right to pursue Claims 21-42 in a continuation patent application, if necessary.

Applicants respectfully request reconsideration of the above restriction requirement given that the above groups of claims are so interrelated that prosecution of the claims would not unduly burden the Examiner.

Applicants respectfully submit that each group of claims features a porous, breathable film. Group I is directed to a porous, breathable film made from a precursor film comprising a water-soluble polymer and a filler, wherein the filler comprises at least 10 percent by weight of the precursor film, and the precursor film having an elongation-at-break of greater than about 150%. Group II is directed to making this film. Therefore, Applicants respectfully submit that a search for the film of Group I would necessitate a search of the method of Group II. Thus, Applicants submit that the search and examination of the entire application could be made without serious burden. See MPEP § 803 in which it is stated that "if the search and examination of the entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct and independent inventions."

Accordingly, Applicants respectfully request withdrawal of the restriction requirement and examination of claims 1-42 as a single group.

II. Prior Art Rejections:

Claims 1, 2, 7, 8 and 11-17 were rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,508,072 to Andersen et al. (hereinafter “Andersen”). This rejection is respectfully traversed.

Claim 1 is directed to, *inter alia*, a porous, flushable, ductile, breathable film, wherein the film is formed from an extruded precursor film, the extruded precursor film comprising a homogeneous blend of a water-soluble polymer and a particulate filler, wherein the filler comprises at least 10 percent by weight of the precursor film, and the precursor film having an elongation-at-break of greater than about 150%, further wherein the precursor film, when stretched, forms pores around the particulate filler thereby increasing the breathability of the breathable film.

Andersen is directed to a paper material, such as cardboard, that includes a fibrous web that may include clay particles to modify the properties of the paper material.

It is respectfully submitted that Andersen fails to teach or suggest Applicants’ claimed invention. Andersen is directed to paper products comprising a fibrous web and a water-soluble binder. These mixtures are formed into the paper product using a press. Clay particles are added to modify the properties of the web. However, the present invention uses homogeneous mixtures of a water-soluble polymer and a particulate filler. These are then extruded, not pressed, into the precursor film. The purpose of the filler is such that, when the film is stretched, pores are formed thereby increasing the breathability of the film. However, in Andersen, the fibrous material already provides breathability to the paper product. Additionally, if the paper product were stretched, the fibrous web would rip, as with any paper material, and there would be no pores formed in the paper, but rather destruction of the integrity of the paper. As such, Andersen fails to teach or suggest an extruded precursor film comprising a homogeneous blend of a water-soluble polymer and a particulate filler wherein the precursor film, when stretched, forms pores around the particulate filler thereby increasing the breathability of the breathable film. As such, Andersen fails to teach or suggest Applicants’ claimed invention.

For at least the reasons given above, Applicant respectfully submits that Claim 1 is allowable over the art of record. Furthermore, since Claims 2, 7, 8 and 11-17 recite additional claim features and depend from Claim 1, these claims are also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

Claims 1, 2, 5-11 and 14-20 were rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,117,438 to Topolkaraev et al. (hereinafter “Topolkaraev”). This rejection is respectfully traversed.

Applicants’ claimed invention may be relied upon as discussed above.

Topolkaraev is commonly owned by the Assignees of the present application, Kimberly Clark Worldwide. Topolkaraev is directed to a multi-microlayer film use as a barrier film.

It is respectfully submitted that Topolkaraev fails to teach or suggest Applicants’ claimed invention. Topolkaraev is directed to multi-microlayer films having alternating layers of a water-soluble polymer and a non-degradable polymer. These films may include a filler material. But these films are designed to be used as barrier films. The alternating layers of water-soluble polymer and non-degradable polymer prevent fluids from passing through the film thereby resulting in the barrier properties. Additionally, these films are not a homogenous blend of a water-soluble polymer and a filler, as claimed by Applicant. Applicants’ claimed films would not be used as barrier films as there is no non-degradable polymer used and the water-soluble polymer would be inadequate as a barrier material. As such, since Topolkaraev provides barrier films and have layers of non-degradable polymer, Topolkaraev fails to teach or suggest a homogeneous blend of a water-soluble polymer and a filler extruded to form a precursor film that is then stretched to form the breathable film of the present invention. Accordingly, Topolkaraev fails to teach or suggest Applicants’ claimed invention.

For at least the reasons given above, Applicant respectfully submits that Claim 1 is allowable over the art of record. Furthermore, since Claims 2, 5-11 and 14-20 recite additional claim features and depend from Claim 1, these claims are also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

Claims 3-6 and 19-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen in view of U.S. Patent No. 6,172,177 to Wang et al. (hereinafter "Wang"). This rejection is respectfully traversed.

Applicants' claimed invention may be relied upon as discussed above.

Applicants' discussion of Andersen may be relied upon as discussed above.

Wang is commonly owned by the Assignees of the present application, Kimberly Clark Worldwide. Wang is directed to a grafted poly(ethylene oxide) composition.

It is respectfully submitted that the combination of Andersen and Wang fails to teach or suggest Applicants' claimed invention. Wang is simply directed to a grafted poly(ethylene oxide) composition and does not disclose the use of particulate fillers to enhance the breathability of a film after the film is stretched. As such, Wang fails to remedy the deficiencies of Andersen. Accordingly, the combination of Andersen and Wang fails to teach or suggest Applicants' claimed precursor film, and therefore Applicants' breathable film made therefrom.

For at least the reasons given above, Applicant respectfully submits that Claim 1 is allowable over the art of record. Furthermore, since Claims 3-6 and 19-20 recite additional claim features and depend from Claim 1, these claims are also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

Claim 18 was rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen. This rejection is respectfully traversed.

Applicants' claimed invention may be relied upon as discussed above.

Applicants' discussion of Andersen may be relied upon as discussed above.

It is respectfully submitted that Andersen fails to teach or suggest Applicants' claimed invention. As discussed, Andersen is directed to fibers, not particulate fillers, to impart breathability into the paper products made therefrom, such as cardboard. Accordingly, Andersen fails to teach or suggest Applicants' claimed precursor film, and therefore Applicants' breathable film made therefrom.

For at least the reasons given above, Applicant respectfully submits that Claim 1 is allowable over the art of record. Furthermore, since Claim 18 recites additional claim features and depends from Claim 1, this claim is also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Topolkaraev in view of Wang. This rejection is respectfully traversed.

Applicants' claimed invention may be relied upon as discussed above.

Applicants' discussion of Topolkaraev may be relied upon as discussed above.

Applicants' discussion of Wang may be relied upon as discussed above.

It is respectfully submitted that the combination of Topolkaraev and Wang fails to teach or suggest Applicants' claimed invention. As discussed, Wang is simply directed to a grafted poly(ethylene oxide) composition and does not disclose the use of particulate fillers. Additionally, Wang fails to teach or suggest a homogeneous blend of a water-soluble polymer and a filler. As such, Wang fails to remedy the deficiencies of Topolkaraev. Accordingly, the combination of Topolkaraev and Wang fails to teach or suggest Applicants' claimed precursor film, and therefore Applicants' breathable film made therefrom.

For at least the reasons given above, Applicant respectfully submits that Claim 1 is allowable over the art of record. Furthermore, since Claims 3 and 4 recite additional claim features and depend from Claim 1, these claims are also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

Claims 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Topolkaraev. This rejection is respectfully traversed.

Applicants' claimed invention may be relied upon as discussed above.

Applicants' discussion of Topolkaraev may be relied upon as discussed above.

It is respectfully submitted that Topolkaraev fails to teach or suggest Applicants' claimed invention. As discussed, Topolkaraev is directed to multi-microlayer films having alternating layers of a water-soluble polymer and a non-degradable polymer. These films may include a filler material. But these films are designed to be used as barrier films. The alternating layers of water-soluble polymer and non-degradable polymer are not a homogenous blend of a water-soluble polymer and a filler, as claimed by Applicant. As such, Topolkaraev fails to teach or suggest Applicants' claimed precursor film, and therefore Applicants' breathable film made therefrom.

For at least the reasons given above, Applicant respectfully submits that Claim 1 is allowable over the art of record. Furthermore, since Claims 12 and 13 recite additional claim

features and depend from Claim 1, these claims are also allowable over the art of record. Accordingly, Applicants respectfully request withdrawal of this rejection.

III. Conclusion:

For at least the reasons given above, Applicant submits that Claims 1-42 define patentable subject matter. Accordingly, Applicant respectfully requests allowance of these claims.

The foregoing is submitted as a full and complete Response to the First Office Action mailed May 11, 2001, and early and favorable consideration of the claims is requested.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is respectfully requested to contact Applicants' representative at the telephone number listed below.

A check in the amount of \$110 is included for a one month extension of time. No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,


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AMENDMENTS IN THE CLAIMS:

In accordance with 37 C.F.R. 1.121(c), the following versions of the claims as rewritten by the foregoing amendment show all of the changes made relative to the previous versions of the claims.

1. (Amended) A porous, flushable, ductile, breathable film, wherein the film is formed from [a] an extruded precursor film, the extruded precursor film comprising a homogeneous blend of a water-soluble polymer and a particulate filler, wherein the filler comprises at least 10 percent by weight of the precursor film, and the precursor film having an elongation-at-break of greater than about 150%, further wherein the precursor film, when stretched, forms pores around the particulate filler thereby increasing the breathability of the breathable film.